

**REMARKS**

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated February 27, 2009, has been received and its contents carefully reviewed.

Claims 1, 7, and 14 are hereby amended. No new matter has been added. Claim 8 is hereby canceled without prejudice to or disclaimer of the subject matter contained therein. Accordingly, claims 1-7 and 9-20 are currently pending. Reexamination and reconsideration of the pending claims is respectfully requested.

**Claims 1-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,431,294 to Stottmann et al (hereinafter “*Stottmann*”).** *Office Action* at p.2, ¶ 3. The rejection of claim 8 is moot as this claim is canceled. Applicant respectfully traverses the rejection of the remaining claims and requests reconsideration.

Independent claim 1 is allowable over the cited reference in that claim 1 recites a combination of elements including, for example, “a basket handle extending a predetermined length upward from the basket; and a cap adapted to move up and down by sliding along the basket handle, wherein the silverware can be inserted in the cap regardless of a height of the cap.” *Stottmann* fails to teach or suggest at least these features of the claimed invention.

The Office asserts that *Stottmann* teaches, “a cap (65) for moving upwards and downwards above the basket and supporting silverware” *Office Action* at p.2, ¶ 4. *Stottmann*, however, teaches that “the cover 65 is moveable between a generally vertical position, within the handle 52 and exposing the entire basket 31 (as seen in FIG. 4), and a generally horizontal position to either side of the handle and covering a portion of the basket 31 (as seen in the phantom line portion of FIG. 2).” *Stottmann* at col. 4, ll. 32-38 and FIG. 2. As seen from FIG. 2 and associated text of *Stottmann*, the cover 65 is rotatably coupled to the handle 52. In contrast, Applicant claims “a cap adapted to move up and down by sliding along the basket handle.” This claimed structure provides that the spoon basket of the exemplary embodiments of the present invention can contain tall silverware and short silverware at the same time, and the silverware

can thus be washed at the same time. Thus, *Stottmann* does not teach all of the features as recited in independent claim 1.

Additionally, Applicant claims that “the silverware can be inserted in the cap regardless of a height of the cap.” *Stottmann*, however, teaches that the silverware can be inserted into the cover when the cover is at horizontal position. Allowing that the cap of the present invention corresponds to the cover 65 of *Stottmann*, *Stottmann* doesn’t teach that “the silverware could be inserted in the cap regardless of a height of the cap” as claimed in independent claim 1.

Independent claim 7 is allowable over the cited references in that claim 7 recites a combination of elements including, for example, “a basket handle extending a predetermined height from the basket; a cap support formed at side surfaces of the basket handle and having a guide slot; and a cap having a height-adjusting tab which is inserted into the guide slot and slidably moving upwards and downwards along the guide slot.” *Stottmann* does not teach or suggest at least these features of the claimed invention.

The Office asserts that *Stottmann* teaches “a basket handle (52) having a cap support (between 61) extending a predetermined height from the basket.” *Office Action* at p.3, ¶ 5. *Stottmann*, however, teaches that the ribs 61 are formed on the bottom surface of the handle 52. *Stottmann* at FIG. 2. In contrast, Applicant claims that “a cap support formed at side surfaces of the basket handle and having a guide slot.” Thus, *Stottmann* does not teach all of the features as recited in independent claim 7.

Additionally, the Office associates the guide slot and the height-adjusting tab of the present invention with “between 61” and “fingers and offset portions 70-73” of *Stottmann*. *Office Action* at p.3, ¶ 5. Applicant respectfully disagrees. As seen from FIG. 2 and the associated text of *Stottmann*, the “between 61” is not a hole or slot and the “fingers and offset portions 70-73” are just coupled to the bar 60 for rotating the cover 65, not inserted into “between 61.” In contrast, Applicant claims in independent claim 7 that “a cap having a height-adjusting tab which

is inserted into the guide slot and adapted to slide up and down along the guide slot.” There is no evidence in *Stottmann* of “the guide slot,” as claimed herein.

Independent claim 14 is allowable over the cited references in that claim 14 recites a combination of elements including, for example, “a cap disposed at a predetermined distance from the basket for supporting the silverware, the silverware being inserted therein.” *Stottmann* fails to teach or suggest at least these features of the claimed invention.

For the same or similar reasons discussed above regarding claim 1, Applicants respectfully assert that *Stottmann* does not teach or suggest at least the above feature of claim 14, and respectfully submits that independent claim 14 is allowable over *Stottmann*.

For at least these reasons, Applicant respectfully requests that the Office withdraw the 35 U.S.C. §102(b) rejection of independent claims 1, 7, and 14. Claims 2-6 depend from independent claim 1. Claims 9-13 depend from independent claim 7. Claims 15-20 depend from independent claim 14. It stands to reason that the 35 U.S.C. §102(b) rejection of those dependent claims should be withdrawn as well.

### **CONCLUSION**

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37

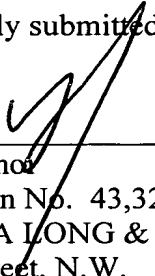
Application No. 11/905,141  
Amendment dated May 27, 2009  
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Docket No. 9988.305.00

C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

Respectfully submitted,

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By   
Yong S. Choi  
Registration No. 43,324  
McKENNA LONG & ALDRIDGE LLP  
1900 K Street, N.W.  
Washington, DC 20006  
(202) 496-7500  
Attorneys for Applicant